THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.21464 OF 2005

Dated: 14-12-2005

Between

Malireddy Lakshammma, W/o. Vekureddy, Occ: Agriculturist,
R/o. Door No.23/1-1491, Aravinda Nagar, Nellore – 3.

...PETITIONER

AND

Sri Thalpagiri Ranganadha Swamy Vari Temple, Ranganayakulalpeta, Nellore, rep. by its Manager and another.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the first respondent under the instructions of the second respondent to hold auction of Ac.2.45 cents of wet land in her possession as cultivating tenant belonging to the first respondent temple comprised in Sy.Nos.1576/328 and 329 situated at Nellore Bit-I, Nellore Town and Nellore District on 03.10.2005 in the office of the first respondent without considering her representation dated 01.07.2005 claiming herself as landless poor person as illegal and arbitrary.

Learned counsel for the petitioner submits that originally the leasehold rights of the abovementioned land was granted in favour of the husband of the petitioner, who was cultivating the said land by paying maktha regularly. It is further submitted after the death of her husband the petitioner continued as the cultivating tenant and the same was approved by the first respondent and she has been paying the rents to the first respondent regularly. Thereafter, she filed an application before the first respondent in the light of Section 82 of the

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') requesting to consider her as a landless poor person and permit her to cultivate the said land subject to payment of rent. It is further submitted that without considering her application and without treating her as an encroacher under Section 83 of the Act, the respondents have issued a notification proposing to auction the cultivating rights of the said lands on 03.10.2005, which is illegal and arbitrary.

Counter has been filed stating that the husband of the petitioner was a tenant of the said lands paying a maktha of 2 puttis 10 tums per year and as he defaulted in payment of rent, the first respondent field eviction petition in A.T.C.No.12 of 1994 against him. Even otherwise also the leases granted in respect of endowed lands automatically stands cancelled by virtue of Section 82 of the Act. It is further stated that the neither the petitioner nor her husband is a landless poor and in fact, no application has been filed to consider her claim as landless poor under Section 82 of the Act. Therefore, the question of not disposing the said application does not arise. It is further stated that auction was held on 03.10.2005 and one Mr. Bheemireddy Satyanarayana, who is none other than the son-in-law of the petitioner, became the highest bidder offering to pay 9 puttis 15 tums for Ac.5.08 cents.

In the absence of any application filed by the petitioner the question of considering her claim as landless poor person does not arise. As the petitioner was also paying maktha for the said lands, she continued to be a tenant of the said lands. Therefore, the said tenancy automatically stands terminated under Section 82 of the act and as the petitioner cannot be treated as encroacher, the initiation of proceedings under Section 83 of the Act for evicting her does not arise.

This Court does not see any merits in the writ petition and it is accordingly dismissed. However, as the petitioner states that there exists a standing crop raised by her and it is yet to be harvested within a short period, this Court grants liberty to the petitioner to make an application before the first respondent bringing to its notice the standing crop, if any raised, and on such an application being filed the first respondent may consider and pass appropriate orders in accordance with law.

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V. ESWARAIAH, J

December 14, 2005

Note: Furnish C.C. of the order by 16.12.2005

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DSK